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17 UNITED STATES DISTRICT COURT

18 DISTRICT OF NEVADA

19 MATTHEW R. LINDNER, et al.,
20 Plaintiffs,
21 vs.
22 FORD MOTOR COMPANY, et al.,
23 Defendants.

Case No. : 2-10-CV-0051-LDG-LRL

**DEFENDANT EVENFLO COMPANY,
INC.'S MEMORANDUM IN RESPONSE
TO PLAINTIFF'S OBJECTIONS TO
EXHIBIT 512 [DOC. 180]**

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MEMORANDUM OF POINTS AND AUTHORITIES

In connection with its objection to certain demonstrative exhibits and other exhibits listed on Evenflo's Final Trial Exhibit List filed on September 30, 2015 [Doc. No. 158], Plaintiff incorrectly characterizes the exhibits as an attempt by Evenflo to offer undisclosed expert opinions and has filed a motion to exclude use of the exhibits by Evenflo at trial. [See Plaintiff's Objections to Defendant's Trial Exhibits and Motion to Exclude Undisclosed Additional Expert Opinions, Doc. Nos. 175-185 ("Plaintiff's Objection")]. For the reasons set forth below, Plaintiff's motion must be denied. The motion also is premature in multiple respects.

Plaintiff's Objection [Doc. No. 175] was originally filed as it contained multiple separate arguments in one document. Plaintiff thereafter corrected his error by resubmitting the same motion with separate headings. Defendant has responded to all arguments in one motion – Defendant Evenflo Company, Inc.'s Memorandum in Opposition to Plaintiff's Objection to Exhibits and Motion to Exclude Undisclosed Expert Opinions [Doc. No. 189]. Defendant further breaks its arguments into separate arguments related only to a specific exhibit for ease of the Court in working through the documents and to set forth a clear docket.

**Response to Plaintiff's Objection to
Photographs of the Subject Car Seat and Exemplar Car Seat (Exhibit 512)**

Plaintiff's car seat expert, Arthur Hoffman, although his testimony is confusing, apparently believes the position of the carry handle of the Embrace at the time of the accident was in the "stand" position, rather than the middle position. Exhibit 512 contains scene photographs of the subject car seat, which clearly show the position of the carry handle being in the middle position, and comparison photos of an exemplar Embrace car seat with the handle in that middle position.

1 These photographs are not “duplicative and unnecessary.” They will illustrate for the jury the
2 position of the carry handle. Dr. Van Arsdell can lay the proper foundation for the admissibility of
3 these photos at trial.

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5 DATED this 5th Day of October, 2015.

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8 /s/ Rosemary Missisian

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CERTIFICATE OF SERVICE

I hereby certify that on the 2nd day of October, 2015, a true and correct copy of the foregoing **DEFENDANT EVENFLO COMPANY, INC.'S MEMORANDUM IN RESPONSE TO PLAINTIFF'S OBJECTIONS TO EXHIBIT 512 [DOC. 180]** was served by operation of the Court's electronic filing system on the following counsel of record:

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/s/ *Rosemary Missisian*

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